

**Before the  
Federal Communications Commission  
Washington DC 20554**

**In the Matter of:**

Schools and Libraries Universal Service	)	
Support Mechanism - Third Report and	)	
Order and Notice of Proposed Rule Making	)	CC Docket No. 02-6
	)	

**Comments of the Arkansas E-rate Work Group  
(AEWG)**

On behalf of the  
Arkansas E-rate Work Group:  
Becky Rains, PMP  
Arkansas Department of Information Systems  
P. O. Box 3155  
Little Rock, Arkansas 72203-3155

<u>Section</u>	<u>Page</u>
<b><u>Table of Contents</u></b> .....	<b>2</b>
<b><u>Summary of Comments</u></b> .....	<b>3</b>
<b><u>Issue Areas of the Second Further Notice</u></b>	
Changes to the Discount Matrix .....	<b>3</b>
Competitive Bidding Process.....	<b>4</b>
Other Actions to Reduce Waste, Fraud and Abuse.....	<b>5</b>
Technology Plans.....	<b>6</b>

## **Forward**

The State of Arkansas E-rate Workgroup (AEWG) respectfully submits its comments in the above referenced proceeding. The AEWG is a working group representing public officials who lead the departments responsible for elementary education, secondary education, and public libraries in the State of Arkansas. The AEWG works on behalf of state agencies that serve pre-Kindergarten – 12th grade, students and public library patrons throughout the state to increase student performance.

AEWG has relied on the important work of members of the workgroup as well as input from individual applicants. Members of AEWG include: AR Department of Education, AR Department of Information Systems, AR Governor’s Office and AR State Library. These individuals have offered ongoing support for schools, libraries and consortia to navigate the E-rate application process from the beginning, through multiple steps and, finally, to the acquisition of discounts and/or refunds on their telecommunications and advanced service purchases. AEWG members have knowledge about the E-rate program because they help school districts and libraries with their E-rate applications, are responsible for state consortia applications, regularly work with the Universal Service Administrative Company’s Schools and Libraries Division (“Administrator”), and have a particularly good grasp of the program’s history and intent. These comments reflect the best knowledge available about the E-rate program. The AEWG surveyed E-rate coordinators from around the state to provide input to these comments.

In this Notice of Proposed Rulemaking and Order (NPRM), the Commission has requested comments on specific issues and in the general program administration so that the Commission and the Administrator can improve the program to streamline the process and prevent fraud, waste and abuse. We appreciate the opportunity to comment on these important issues and strive to provide the perspective of the state organizations we represent and the schools and libraries we serve. In this document, we comment on the following:

- A. Changes to the Discount Matrix from 90% discount for Internal Connections to an 80% discount.
- B. Competitive Bid Process FCC Form 470 does not meet its intended goal
- C. Registration of consultants and outside experts who profit from the program should be mandatory.
- D. Technology Plans requirements should be aligned with guidelines set by the U.S. Department of Education for public schools or by the U.S. Institute for Museum and Library Services for public libraries

## **SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

### **A. Discount Matrix**

The AEWG believes the use of a discount matrix is both an effective and efficient way to determine support payments for eligible services. Recommendations for altering the discount matrix for Priority II requests arose from the apparent continual funding of those applicants in the highest discount bands. There is also a perception that applicants with a 90 percent discount may not have sufficient incentives for limiting the funding they request. Changes in the discount matrix may also dissuade vendors from improperly offering to forgive or refund the 10 percent contribution required of applicants in the highest discount band. In addition, altering the discount rate would be an effective way to increase the availability of funds for eligible applicants outside the highest discount band. The AEWG recognizes that the applicants in the 90 percent discount band are still the entities in the most financial need of E-rate support. To put this in perspective for the state of Arkansas the majority of applicants fall in the 70 and 80 percent discount bands (see table below). Funding Year 2003 is the first time many of the applicants in Arkansas have received funding for Internal Connections.

<50%	0.02	70%-79%	0.40
50%-59%	0.07	80%-89%	0.29
60%-69%	0.12	90%	0.09

Although a small percentage of entities receive 90 percent discounts, they are in the most economically depressed areas in Arkansas. The applicants with a 90 percent discount for Priority I Service should receive priority in receiving funding for Priority II Service.

If the Commission decides to adjust the discount matrix the AEWG believes the following Discount Matrix should be adopted:

<b>INCOME</b> As measured by % of students eligible	<b>PRIORITY ONE</b>	<b>PRIORITY ONE</b>	<b>PRIORITY TWO</b>	<b>PRIORITY TWO</b>
	<b>URBAN</b>	<b>RURAL</b>	<b>URBAN</b>	<b>RURAL</b>

<b>for National Lunch Program</b>	<b>Discount %</b>	<b>Discount %</b>	<b>Discount %</b>	<b>Discount %</b>
<b>Less than 1%</b>	<b>20%</b>	<b>25%</b>	<b>20%</b>	<b>25%</b>
<b>1% to 19%</b>	<b>40%</b>	<b>50%</b>	<b>40%</b>	<b>50%</b>
<b>20% to 34%</b>	<b>50%</b>	<b>60%</b>	<b>50%</b>	<b>60%</b>
<b>35% to 49%</b>	<b>60%</b>	<b>70%</b>	<b>60%</b>	<b>70%</b>
<b>50% to 74%</b>	<b>80%</b>	<b>80%</b>	<b>80%</b>	<b>80%</b>
<b>75% to 100%</b>	<b>90%</b>	<b>90%</b>	<b>80%</b>	<b>80%</b>

Implementation of a reduction in discounts must begin in a well-defined funding year. Notice of the reduction must be provided to all program participants at the earliest possible date to allow for budget changes, and technology changes where necessary. Funds should continue to be allocated among all applicants at the discount level on a pro rata basis.

The AEWG believes that with the rules the FCC adopted in the foregoing Order, limiting the availability of support for internal connections to twice every five years, will make support available to more applicants on a regular basis.

#### **B. Competitive Bidding Process – Changes to the Form 470**

The AEWG understands there has to be competitive bidding requirements for eligible schools and libraries that wish to receive discounted services. Currently recipients of support for discounted services must submit FCC Form 470 to the Administrator. The AEWG believes the requirement to submit the FCC Form 470 does not meet the FCC's goal of opening competition in many areas, especially for basic telecommunications services, (POTS, Cellular Service, Pager Service and Long Distance). Many areas in Arkansas have only one telecommunications provider and do not receive a response from their posting.

The AEWG believes it would serve the FCC's goals to simplify rather than eliminate the current FCC Form 470 posting process. Building exceptions in a program such as not filing for basic telecommunications service when receiving tariffed service, but posting for a telecommunications contract and any other type of service adds more complexity to the program. Another problem would arise if an applicant is unaware of a new telecommunications provider in an area, and they believe their only option is tariff service. In this case they would not have filed an FCC Form 470. What happens if they learn of the availability of service from another provider that is less expensive, but they have to sign a contract? If the 28 day period has elapsed, the applicant has lost an opportunity to cut cost for both their entity and the program.

All states have purchasing laws that govern major purchases. The AEWG does not expect the program administrators to learn all rules governing state purchases. What the rules have in common is that dollar limits are set in each state to determine when a

commodity purchase has to go out with an RFP. The AEWG recommends that the FCC set such a limit in the E-rate Program.

Every state has a procurement law. This is a mechanism that is in place in every state that would ensure that the FCC's objective of ensuring that applicants select reasonably priced services is met. The AEWG recommends the Schools & Libraries Division work with organizations that routinely work with and have hands on knowledge of the process such as SECA and NASTD to develop a new competitive bid process that will ensure the FCC's goals are met for the small applicant as well as large consortia and state networks.

The AEWG believes that the majority of applicants are good fiscal agents for their entity and the E-rate Program. We believe that these applicants already select cost effective services in situations in which no entity, or only one entity, responds to a Form 470 posting. Applicants have gone as far as calling Arkansas Office of State Purchasing and asking for a list of vendors to supplement the non-bid or one bid they have received. Many not only post the FCC form 470 but also post notices in local newspapers. The FCC should be aware that with all of the negative publicity on Waste, Fraud and Abuse, there are more applicants following the rules than breaking them. It is unfortunate that the bad apples make the process more cumbersome for those abiding by the rules.

There are situations where there may be only one service provider capable of, or willing to, provide the requested service. If the service is for basic telecommunications the state's PSC or PUC has already set a cap. You can ensure that the prices for other services are reasonable, and do not waste scarce universal service funds by setting a cap on what the equipment of service costs. This would require the Schools and Libraries Division working with the service provider community to develop what are reasonable charges for equipment in a region.

## **Other Actions to Reduce Waste, Fraud, and Abuse**

### **C. Consultants and Outside Experts**

The AEWG believes applicants should be required to identify any consultants or other outside experts who aid in the preparation of the applicant's technology plan or in the applicant's procurement process and thereby profit from the E-rate program. We believe consultants and other outside experts offering their services to applicants should be required to register with USAC and to disclose any potential conflicts of interests derived from relationships with service providers. Identifying these consultants and outside experts could facilitate the ability of the Commission, and law enforcement officials, to identify and prosecute individuals that may seek to manipulate the competitive bidding process or engage in other illegal acts. The only exception to this rule is when the aid is provided by a public entity in the state such as regional technology coordinators, staff of Department of Education, the State Library, Executive CIO's Office or the state's IT Department. Since state agencies will not profit from any consulting service that they provide, they should be exempt from registering.

The FCC should adopt a rule that would prohibit an entity that seeks to become a service provider from providing any form of technology planning or procurement management assistance to applicants. Under such a rule, any entity that provides management support services, technical assistance, consulting services, assistance in technical evaluations, or systems engineering services to a particular recipient would be barred from competing for the contracts for eligible services with that recipient.

#### **D. Technology Plans**

The purpose of school district technology plans is to effectively integrate technology into the curriculum to improve teaching and learning. The AEWG is concerned that the FCC/SLD has lost sight of this original purpose, and are now viewing technology plans as a yearly list of technology purchases that enhance the Form 470 and Form 471 application process.

The AEWG bases its concern on the Commission's proposal to codify current SLD technology plan requirements to include an analysis of leasing vs. purchasing services and plans to implement cost-effectiveness in purchasing services to meet educational objectives (Third Report at paragraph 94). District technology plans are written to cover three years with the understanding that technology and technology costs frequently fluctuate and change. A district's budget isn't typically set for a funding year until well after the Form 470/471 deadlines have passed. It would be very difficult for a district to determine the value of leasing vs. purchasing several years in advance of the actual purchase. This means that the "E-rate Technology Plan" would need to become a yearly document. The AEWG feels that in order to meet the requirements of the FCC/SLD, this "E-rate Technology Plan" should become an attachment to the 470, 471 or 486, which PIA personnel can review along with the application. States should be responsible for setting their own guidelines for districts to submit an educational technology plan that follows the goals and requirements for the No Child Left Behind (NCLB) program.

In order for districts to submit educational technology plans that effectively improve education, the AEWG encourages the Commission to allow the U.S. Department of Education (DOE) to define the purpose of educational technology plans. The AEWG also supports the proposal that the Commission align the technology plan requirements as set by the SLD to the goals and requirements of the DOE for district plans or the U.S. Institute for Museum and Library Services for public library technology plans.

Schools and libraries write technology plans for reasons other than to receive E-rate funding. Thus, it is essential that states be allowed to set their own requirements and goals for technology plans correspond to the NCLB technology plan goals. The AEWG feels that the Commission should not overburden states with additional qualifications in order to approve technology plans. These requirements to approve educational technology plans should come from the DOE and be based on the NCLB program.